

AMENDED IN SENATE MARCH 28, 2003

**SENATE BILL**

**No. 678**

**Introduced by Senator Ortiz**

February 21, 2003

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An act to add Sections 35182.6, 49431.2, 49431.3 to the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 678, as amended, Ortiz. Pupil health: food sales.

Existing law imposes certain restrictions on the sale of food items, including beverages, sold in elementary, middle, and high schools.

This bill would require each elementary, middle, and high school that sells unhealthy beverages on its campus to offer *water* for sale ~~at least an equal number of water containers of comparable size at a cost of at least 10% less than the cost of the unhealthy beverage at all locations at which unhealthy beverages are sold. The bill would require that the price markup on water be reasonable and no more than the price markup on other beverages that are sold on campus.~~ The bill would require that any vending machine located on a school campus contain at least as many dispensing slots for healthy beverages as unhealthy beverages. The bill would prohibit the *acceptance of free unhealthy beverages* for distribution of ~~free unhealthy beverages~~ to pupils on any school campus. The bill would define healthy beverages and unhealthy beverages for the purposes of these provisions.

The bill would further require that a contract entered into on or after January 1, 2004, for the sale of beverages or fast food, as defined, on an elementary, middle, or high school campus allow for annual reviews to amend or cancel the contract. The bill would, in addition, provide that the contract may not contain a confidentiality clause.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35182.6 is added to the Education Code,  
2 to read:

3 35182.6. (a) Notwithstanding any other provision of law, a  
4 contract entered into on or after January 1, 2004, for the sale of  
5 beverages or fast food on an elementary, middle, or high school  
6 campus shall comply with all of the following requirements:

7 (1) The contract may not include a confidentiality clause that  
8 would prevent a school or school district from making any part of  
9 the contract public.

10 (2) The contract shall allow for annual reviews of the contract  
11 for the purposes of amendment or cancellation.

12 (b) For the purposes of this section, “fast food” means food  
13 prepared by a restaurant that sells low-cost food products often on  
14 a “take out” or “to go” basis.

15 SEC. 2. Section 49431.2 is added to the Education Code, to  
16 read:

17 49431.2. (a) Every elementary, middle, and high school that  
18 sells unhealthy beverages on its campus shall offer ~~for sale at least~~  
19 ~~an equal number of water containers of comparable size at a cost~~  
20 ~~of at least 10 percent less than the cost of the unhealthy beverage.~~  
21 *water for sale at all locations at which unhealthy beverages are*  
22 *sold. The price markup on the water shall be reasonable and in an*  
23 *amount that is no greater than the price markup on other*  
24 *beverages that are sold on campus.*

25 (b) A vending machine located on an elementary, middle, or  
26 high school campus shall contain at least as many dispensing slots  
27 for healthy beverages as unhealthy beverages.

28 (c) For the purposes of this section, the following terms have  
29 the following meanings:

30 (1) “Healthy beverages” means water, milk, 100 percent fruit  
31 juices, or fruit-based drinks composed of no less than 50 percent  
32 fruit juice and that have no added sweeteners.

33 (2) “Unhealthy beverages” means any beverage not defined as  
34 a healthy beverage pursuant to paragraph (1).



1 SEC. 3. Section 49431.3 is added to the Education Code, to  
2 read:

3 ~~49431.3. An unhealthy beverage, as defined by paragraph (1)~~  
4 ~~of Section 49431.2, may not be distributed to any pupil on a school~~  
5 ~~campus free of charge.~~

6 *49431.3. No school, school district, or charter school, or any*  
7 *employee of a school, school district, or charter school, may*  
8 *accept free unhealthy beverages, as defined by paragraph (1) of*  
9 *subdivision (c) of Section 49431.2, for the purpose of distribution*  
10 *to a pupil on a school campus.*

